

UNITED STATES DISTRICT COURT
DISTRICT OF NEW HAMPSHIRE

United States of America

v.

Criminal No. 12-CR-142/01-JL

Robert Joubert

FINAL CRIMINAL PRETRIAL ORDER

1. Date of Pretrial Conference: **October 25, 2013**

2. Counsel Present:

Helen W. Fitzgibbon, AUSA
Bjorn R. Lange, Esq.

3. Type of Trial:

Criminal

4. Date of Trial: **November 5, 2013**

5. Estimated Length of Trial: 4-5 days

6. Questions of Law: None

7. Evidentiary Issues:

In addition to the issues raised in the defendant's motion in limine, on October 18, 2013, the court ordered the prosecution to show cause why it should not be judicially estopped from introducing pornographic images depicting minors other than "John Doe #2" into evidence at the upcoming trial. At the final pretrial conference, the prosecution represented that it would not seek to introduce such images into evidence.

8. Motions: Motion in Limine re: Trial Evidence (doc. no. [35](#))

The prosecution is also expected to file an assented-to-motion to amend the indictment.

9. Jury Selection: See [Fed. R. Crim. P. 23, 24](#)

There will be a total of **6** peremptory challenges for the United States and a total of **10** peremptory challenges for the defendant. **Twelve** jurors (and **two** alternates, resulting in **one** additional peremptory challenge for each side) will be seated. Alternates will be retained through deliberation. Following the court's voir dire and challenges for cause, and before the parties exercise their peremptory challenges, counsel will be permitted to conduct appropriate voir dire of the seated jurors. Each party will be limited to a total of **15 minutes** of voir dire questioning. The court will keep track of the elapsed time from the bench.

10. Exhibits:

Exhibits are to be premarked and submitted to the Clerk's Office not later than one week before evidence is set to begin (in this case, **on or before October 29, 2013**) in accordance with the document entitled "Procedure For Marking Exhibits" which is attached hereto and made a part hereof. Any objections to exhibits shall be set forth briefly in writing and filed with the exhibits. Counsel shall notify each other at the time the exhibits are submitted if any custodian will be required for any exhibit. The defendant shall notify the plaintiffs at the time the exhibits are submitted if there is any objection to the medical bills on the grounds that they are not reasonable and necessary.

11. Witness List:

The parties shall exchange and file a list of witnesses they intend to call at trial at the time they premark and submit exhibits. The parties will be bound by the witnesses disclosed in this list absent extraordinary circumstances.

12. Electronic Evidence

The parties are directed to the United States District Court's policy regarding electronic evidence which applies in this case. The parties are to jointly notify the court of their agreed-to procedure. See Presenting Electronic Evidence to Deliberating Petit Jurors located at <http://www.nhd.uscourts.gov/ct/>.

13. Disclosure:

The United States has represented that its Brady and Jencks disclosures have been made, and defense counsel said that he is satisfied with those disclosures. Potential Rule 404(b) evidence to be introduced by the prosecution has also been disclosed and is the subject of the defendant's pending motion in limine.

14. Prospective ex parte and sealed Rule 29 memoranda

On or before the date on which the prosecution begins its case in chief, the parties may file, under seal and ex parte at Level II, memoranda calling and focusing the court's attention on particular issues the respective parties believe will be pertinent to the court's consideration of any expected Rule 29 motions, citing applicable authority and referring to evidence the parties believe will be presented (or not presented) at trial. The memoranda shall be unsealed and exchanged by the parties upon the filing (or making) of any Rule 29 motion.

SO ORDERED.



Joseph N. Laplante
United States District Judge

Dated: October 28, 2013

cc: Helen W. Fitzgibbon, AUSA
Bjorn R. Lange, Esq.